



February 25, 2005

HOUSE BILL No. 1390

DIGEST OF HB 1390 (Updated February 22, 2005 8:26 pm - DI 14)

Citations Affected: IC 10-13; IC 25-1; IC 25-21.8; noncode.

Synopsis: Massage therapy regulation. Establishes the state board of massage therapy to license massage therapists. Specifies licensure requirements. Establishes guidelines for the licensing by endorsement of a massage therapist who holds a license in another state or country. Establishes penalties for the unauthorized practice of massage therapy.

Effective: June 1, 2005; July 1, 2005.

Frizzell, Stevenson, Bischoff

January 13, 2005, read first time and referred to Committee on Public Health.
February 14, 2005, reassigned to Committee on Public Policy and Veterans Affairs.
February 24, 2005, amended, reported — Do Pass.

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HB 1390—LS 7201/DI 110+



February 25, 2005

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

HOUSE BILL No. 1390

A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 10-13-3-37 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 37. (a) Under Public
3 Law 92-544 (86 Stat. 1115), a local law enforcement agency may use
4 fingerprints submitted for the purpose of identification in a request
5 related to the following:

6 (1) A taxicab driver's license application.

7 (2) ~~An application for a license for a massage therapist.~~

8 ~~(3) (2) Reinstatement or renewal of a taxicab driver's license.~~
9 ~~described in subdivisions (1) and (2).~~

10 (b) An applicant shall submit the fingerprints on forms provided for
11 the license application.

12 (c) The local law enforcement agency shall charge each applicant
13 the fees set by the department and federal authorities to defray the costs
14 associated with a search for and classification of the applicant's
15 fingerprints.

16 (d) The local law enforcement agency may:

17 (1) forward for processing to the Federal Bureau of Investigation

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1 or any other agency fingerprints submitted by a license applicant;
2 and

3 (2) receive the results of all fingerprint investigations.

4 SECTION 2. IC 25-1-2-2.1 IS AMENDED TO READ AS
5 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2.1. Rather than being
6 issued annually, the following permits, licenses, certificates of
7 registration, or evidences of authority granted by a state agency must
8 be issued for a period of two (2) years or for the period specified in the
9 article under which the permit, license, certificate of registration, or
10 evidence of authority is issued if the period specified in the article is
11 longer than two (2) years:

12 (1) Certified public accountants, public accountants, and
13 accounting practitioners.

14 (2) Architects and landscape architects.

15 (3) Dry cleaners.

16 (4) Professional engineers.

17 (5) Land surveyors.

18 (6) Real estate brokers.

19 (7) Real estate agents.

20 (8) Security dealers' licenses issued by the securities
21 commissioner.

22 (9) Dental hygienists.

23 (10) Dentists.

24 (11) Veterinarians.

25 (12) Physicians.

26 (13) Chiropractors.

27 (14) Physical therapists.

28 (15) Optometrists.

29 (16) Pharmacists and assistants, drugstores or pharmacies.

30 (17) Motels and mobile home park licenses.

31 (18) Nurses.

32 (19) Podiatrists.

33 (20) Occupational therapists and occupational therapy assistants.

34 (21) Respiratory care practitioners.

35 (22) Social workers, marriage and family therapists, and mental
36 health counselors.

37 (23) Real estate appraiser licenses and certificates issued by the
38 real estate appraiser licensure and certification board.

39 (24) Wholesale legend drug distributors.

40 (25) Physician assistants.

41 (26) Dietitians.

42 (27) Hypnotists.

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(28) Athlete agents.

(29) Manufactured home installers.

(30) Home inspectors.

(31) Massage therapists.

SECTION 3. IC 25-1-2-6 IS AMENDED TO READ AS FOLLOWS
[EFFECTIVE JULY 1, 2005]: Sec. 6. (a) As used in this section,
"license" includes all occupational and professional licenses,
registrations, permits, and certificates issued under the Indiana Code,
and "licensee" includes all occupational and professional licensees,
registrants, permittees, and certificate holders regulated under the
Indiana Code.

(b) This section applies to the following entities that regulate
occupations or professions under the Indiana Code:

- (1) Indiana board of accountancy.
- (2) Indiana grain buyers and warehouse licensing agency.
- (3) Indiana auctioneer commission.
- (4) Board of registration for architects and landscape architects.
- (5) State board of barber examiners.
- (6) State board of cosmetology examiners.
- (7) Medical licensing board of Indiana.
- (8) Secretary of state.
- (9) State board of dentistry.
- (10) State board of funeral and cemetery service.
- (11) Worker's compensation board of Indiana.
- (12) Indiana state board of health facility administrators.
- (13) Committee of hearing aid dealer examiners.
- (14) Indiana state board of nursing.
- (15) Indiana optometry board.
- (16) Indiana board of pharmacy.
- (17) Indiana plumbing commission.
- (18) Board of podiatric medicine.
- (19) Private detectives licensing board.
- (20) State board of registration for professional engineers.
- (21) Board of environmental health specialists.
- (22) State psychology board.
- (23) Indiana real estate commission.
- (24) Speech-language pathology and audiology board.
- (25) Department of natural resources.
- (26) State boxing commission.
- (27) Board of chiropractic examiners.
- (28) Mining board.
- (29) Indiana board of veterinary medical examiners.

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- (30) State department of health.
- (31) Indiana physical therapy committee.
- (32) Respiratory care committee.
- (33) Occupational therapy committee.
- (34) Social worker, marriage and family therapist, and mental health counselor board.
- (35) Real estate appraiser licensure and certification board.
- (36) State board of registration for land surveyors.
- (37) Physician assistant committee.
- (38) Indiana dietitians certification board.
- (39) Indiana hypnotist committee.
- (40) Attorney general (only for the regulation of athlete agents).
- (41) Manufactured home installer licensing board.
- (42) Home inspectors licensing board.
- (43) State board of massage therapy.**
- ~~(43)~~ **(44)** Any other occupational or professional agency created after June 30, 1981.

(c) Notwithstanding any other law, the entities included in subsection (b) shall send a notice of the upcoming expiration of a license to each licensee at least sixty (60) days prior to the expiration of the license. The notice must inform the licensee of the need to renew and the requirement of payment of the renewal fee. If this notice of expiration is not sent by the entity, the licensee is not subject to a sanction for failure to renew if, once notice is received from the entity, the license is renewed within forty-five (45) days of the receipt of the notice.

SECTION 4. IC 25-1-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) There is established the Indiana professional licensing agency. The licensing agency shall perform all administrative functions, duties, and responsibilities assigned by law or rule to the executive director, secretary, or other statutory administrator of the following:

- (1) Indiana board of accountancy (IC 25-2.1-2-1).
- (2) Board of registration for architects and landscape architects (IC 25-4-1-2).
- (3) Indiana auctioneer commission (IC 25-6.1-2-1).
- (4) State board of barber examiners (IC 25-7-5-1).
- (5) State boxing commission (IC 25-9-1).
- (6) State board of cosmetology examiners (IC 25-8-3-1).
- (7) State board of funeral and cemetery service (IC 25-15-9).
- (8) State board of registration for professional engineers (IC 25-31-1-3).



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- (9) Indiana plumbing commission (IC 25-28.5-1-3).
- (10) Indiana real estate commission (IC 25-34.1).
- (11) Real estate appraiser licensure and certification board (IC 25-34.1-8-1).
- (12) Private detectives licensing board (IC 25-30-1-5.1).
- (13) State board of registration for land surveyors (IC 25-21.5-2-1).
- (14) Manufactured home installer licensing board (IC 25-23.7).
- (15) Home inspectors licensing board (IC 25-20.2-3-1).

(16) State board of massage therapy (IC 25-21.8-3-1).

(b) Except for appeals of denials of license renewals to the executive director authorized by section 5.5 of this chapter, nothing in this chapter may be construed to give the licensing agency policy making authority, which remains with each board.

SECTION 5. IC 25-1-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. As used in this chapter:

"Board" means the appropriate agency listed in the definition of regulated occupation in this section.

"Director" refers to the director of the division of consumer protection.

"Division" refers to the division of consumer protection, office of the attorney general.

"Licensee" means a person who is:

- (1) licensed, certified, or registered by a board listed in this section; and
- (2) the subject of a complaint filed with the division.

"Person" means an individual, a partnership, a limited liability company, or a corporation.

"Regulated occupation" means an occupation in which a person is licensed, certified, or registered by one (1) of the following:

- (1) Indiana board of accountancy (IC 25-2.1-2-1).
- (2) Board of registration for architects and landscape architects (IC 25-4-1-2).
- (3) Indiana auctioneer commission (IC 25-6.1-2-1).
- (4) State board of barber examiners (IC 25-7-5-1).
- (5) State boxing commission (IC 25-9-1).
- (6) Board of chiropractic examiners (IC 25-10-1).
- (7) State board of cosmetology examiners (IC 25-8-3-1).
- (8) State board of dentistry (IC 25-14-1).
- (9) State board of funeral and cemetery service (IC 25-15-9).
- (10) State board of registration for professional engineers (IC 25-31-1-3).

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- (11) Indiana state board of health facility administrators (IC 25-19-1).
- (12) Medical licensing board of Indiana (IC 25-22.5-2).
- (13) Indiana state board of nursing (IC 25-23-1).
- (14) Indiana optometry board (IC 25-24).
- (15) Indiana board of pharmacy (IC 25-26).
- (16) Indiana plumbing commission (IC 25-28.5-1-3).
- (17) Board of podiatric medicine (IC 25-29-2-1).
- (18) Board of environmental health specialists (IC 25-32-1).
- (19) State psychology board (IC 25-33).
- (20) Speech-language pathology and audiology board (IC 25-35.6-2).
- (21) Indiana real estate commission (IC 25-34.1-2).
- (22) Indiana board of veterinary medical examiners (IC 15-5-1.1).
- (23) Department of natural resources for purposes of licensing water well drillers under IC 25-39-3.
- (24) Respiratory care committee (IC 25-34.5).
- (25) Private detectives licensing board (IC 25-30-1-5.1).
- (26) Occupational therapy committee (IC 25-23.5).
- (27) Social worker, marriage and family therapist, and mental health counselor board (IC 25-23.6).
- (28) Real estate appraiser licensure and certification board (IC 25-34.1-8).
- (29) State board of registration for land surveyors (IC 25-21.5-2-1).
- (30) Physician assistant committee (IC 25-27.5).
- (31) Indiana athletic trainers board (IC 25-5.1-2-1).
- (32) Indiana dietitians certification board (IC 25-14.5-2-1).
- (33) Indiana hypnotist committee (IC 25-20.5-1-7).
- (34) Indiana physical therapy committee (IC 25-27).
- (35) Manufactured home installer licensing board (IC 25-23.7).
- (36) Home inspectors licensing board (IC 25-20.2-3-1).
- (37) State board of massage therapy (IC 25-21.8-3-1).**
- ~~(37)~~ **(38)** Any other occupational or professional agency created after June 30, 1981.

SECTION 6. IC 25-1-8-1 IS AMENDED TO READ AS FOLLOWS
 [EFFECTIVE JULY 1, 2005]: Sec. 1. As used in this chapter, "board" means any of the following:

- (1) Indiana board of accountancy (IC 25-2.1-2-1).
- (2) Board of registration for architects and landscape architects (IC 25-4-1-2).
- (3) Indiana auctioneer commission (IC 25-6.1-2-1).

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- 1 (4) State board of barber examiners (IC 25-7-5-1).
- 2 (5) State boxing commission (IC 25-9-1).
- 3 (6) Board of chiropractic examiners (IC 25-10-1).
- 4 (7) State board of cosmetology examiners (IC 25-8-3-1).
- 5 (8) State board of dentistry (IC 25-14-1).
- 6 (9) State board of funeral and cemetery service (IC 25-15).
- 7 (10) State board of registration for professional engineers
- 8 (IC 25-31-1-3).
- 9 (11) Indiana state board of health facility administrators
- 10 (IC 25-19-1).
- 11 (12) Medical licensing board of Indiana (IC 25-22.5-2).
- 12 (13) Mining board (IC 22-10-1.5-2).
- 13 (14) Indiana state board of nursing (IC 25-23-1).
- 14 (15) Indiana optometry board (IC 25-24).
- 15 (16) Indiana board of pharmacy (IC 25-26).
- 16 (17) Indiana plumbing commission (IC 25-28.5-1-3).
- 17 (18) Board of environmental health specialists (IC 25-32-1).
- 18 (19) State psychology board (IC 25-33).
- 19 (20) Speech-language pathology and audiology board
- 20 (IC 25-35.6-2).
- 21 (21) Indiana real estate commission (IC 25-34.1-2-1).
- 22 (22) Indiana board of veterinary medical examiners
- 23 (IC 15-5-1.1-3).
- 24 (23) Department of insurance (IC 27-1).
- 25 (24) State police department (IC 10-11-2-4), for purposes of
- 26 certifying polygraph examiners under IC 25-30-2.
- 27 (25) Department of natural resources for purposes of licensing
- 28 water well drillers under IC 25-39-3.
- 29 (26) Private detectives licensing board (IC 25-30-1-5.1).
- 30 (27) Occupational therapy committee (IC 25-23.5-2-1).
- 31 (28) Social worker, marriage and family therapist, and mental
- 32 health counselor board (IC 25-23.6-2-1).
- 33 (29) Real estate appraiser licensure and certification board
- 34 (IC 25-34.1-8).
- 35 (30) State board of registration for land surveyors
- 36 (IC 25-21.5-2-1).
- 37 (31) Physician assistant committee (IC 25-27.5).
- 38 (32) Indiana athletic trainers board (IC 25-5.1-2-1).
- 39 (33) Board of podiatric medicine (IC 25-29-2-1).
- 40 (34) Indiana dietitians certification board (IC 25-14.5-2-1).
- 41 (35) Indiana physical therapy committee (IC 25-27).
- 42 (36) Manufactured home installer licensing board (IC 25-23.7).

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(37) Home inspectors licensing board (IC 25-20.2-3-1).

(38) State board of massage therapy (IC 25-21.8-3-1).

~~(38)~~ **(39)** Any other occupational or professional agency created after June 30, 1981.

SECTION 7. IC 25-1-11-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. As used in this chapter, "board" means any of the following:

(1) Indiana board of accountancy (IC 25-2.1-2-1).

(2) Board of registration for architects and landscape architects (IC 25-4-1-2).

(3) Indiana auctioneer commission (IC 25-6.1-2).

(4) State board of barber examiners (IC 25-7-5-1).

(5) State boxing commission (IC 25-9-1).

(6) State board of cosmetology examiners (IC 25-8-3-1).

(7) State board of registration of land surveyors (IC 25-21.5-2-1).

(8) State board of funeral and cemetery service (IC 25-15-9).

(9) State board of registration for professional engineers (IC 25-31-1-3).

(10) Indiana plumbing commission (IC 25-28.5-1-3).

(11) Indiana real estate commission (IC 25-34.1-2-1).

(12) Real estate appraiser licensure certification board (IC 25-34.1-8).

(13) Private detectives licensing board (IC 25-30-1-5.1).

(14) Manufactured home installer licensing board (IC 25-23.7).

(15) Home inspectors licensing board (IC 25-20.2-3-1).

(16) State board of massage therapy (IC 25-21.8-3-1).

SECTION 8. IC 25-21.8 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

ARTICLE 21.8. MESSAGE THERAPISTS

Chapter 1. Application of Article

Sec. 1. (a) This article applies to an individual who practices or offers to practice massage therapy.

(b) This article does not apply to the following:

(1) An individual who:

(A) does not profess to be a massage therapist or use a title, an abbreviation, or another designation set forth in IC 25-21.8-5-4(3); and

(B) engages in the practice for which the person holds a license, certification, or registration under Indiana law, including a physician, a chiropractor, a podiatrist, or a physical therapist.

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(2) An individual who:

(A) does not profess to be a massage therapist or use a title, an abbreviation, or another designation set forth in IC 25-21.8-5-4(3); and

(B) is a qualified member of a professional group and performs massage in a manner consistent with the individual's training and code of ethics of the profession, including a chiropractor, an occupational therapist, a cosmetologist, or a nurse.

(3) A massage therapy student who performs massage or massage therapy in the course of the student's studies and who:

(A) does not profess to be a massage therapist or use a title, an abbreviation, or another designation set forth in IC 25-21.8-5-4(3); and

(B) does not receive or request compensation for the massage or massage therapy.

(4) An individual who:

(A) does not profess to be a massage therapist or use a title, an abbreviation, or another designation set forth in IC 25-21.8-5-4(3) and whose services are not designated or implied to be massage or massage therapy;

(B) is engaged within the scope of practice of a profession with established standards and ethics; and

(C) uses:

(i) touch, words, and direct movements to deepen awareness of existing patterns of movement in the body and to suggest new possibilities of movement; or

(ii) touch that is essential for effectual palpation of the human energy system.

(5) An individual who:

(A) does not profess to be a massage therapist or use a title, an abbreviation, or another designation set forth in IC 25-21.8-5-4(3); and

(B) treats soft tissue above the neck, below the elbow, or below the knee on a client who is not disrobed.

Chapter 2. Definitions

Sec. 1. Definitions in this chapter apply throughout this article.

Sec. 2. "Board" means the state board of massage therapy established by IC 25-21.8-3-1.

Sec. 3. "Licensing agency" means the Indiana professional licensing agency established under IC 25-1-6.

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Sec. 4. "Massage", "massage therapy", or "bodywork":

(1) means the therapeutic application of massage techniques on the human body;

(2) includes:

(A) the use of touch, pressure, percussion, kneading, movement, positioning, nonspecific stretching, stretching within the normal anatomical range of movement, and holding, with or without the use of massage devices that mimic or enhance manual measures; and

(B) the external application of heat, cold, water, ice, stones, thermal therapy, lubricants, abrasives, and topical preparations that are not classified as prescription drugs; and

(3) does not include:

(A) joint manipulation or spinal adjustment; and

(B) diagnosis or prescribing drugs for which a license is required.

Sec. 5. "Massage therapist" means an individual who practices massage or massage therapy.

Sec. 6. "NCCA" refers to the National Commission for Certifying Agencies.

Sec. 7. "Practice of massage", "practice of massage therapy", or "practice of bodywork" means:

(1) the performance of massage or massage therapy;

(2) professing to be a massage therapist; or

(3) implying in any manner to the public that an individual performs massage or massage therapy.

Sec. 8. "Professional massage and bodywork therapy association" means a state or nationally chartered organization that is devoted to the massage specialty and therapeutic approach and that meets the following requirements:

(1) The organization requires that its members meet minimum educational requirements. The educational requirements must include anatomy, physiology, hygiene, sanitation, ethics, technical theory, and application of techniques.

(2) The organization has an established code of ethics and has procedures for the suspension and revocation of membership of persons violating the code of ethics.

Chapter 3. State Board of Massage Therapy

Sec. 1. The state board of massage therapy is established.

Sec. 2. The board consists of five (5) members appointed by the

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governor as follows:

(1) Three (3) massage therapists, each of whom:

(A) is licensed under this article; and

(B) has been actively practicing massage therapy for at least three (3) of the five (5) years immediately preceding the individual's appointment.

The board members appointed under this subdivision may continue to practice massage or massage therapy while serving on the board.

(2) Two (2) members of the general public. A board member appointed under this subdivision must not:

(A) be licensed under this article;

(B) be the spouse of an individual who is licensed or intends to be licensed under this article; or

(C) have a direct or an indirect financial interest in the profession regulated under this article.

Only one (1) of the two (2) members appointed under this subdivision may hold a license in another health care profession under this title.

Sec. 3. Each member of the board shall serve a term of three (3) years and until the member's successor is appointed and qualified.

Sec. 4. (a) A vacancy in the membership of the board shall be filled by an individual appointed by the governor for the unexpired term.

(b) A member may not serve more than two (2) consecutive terms in addition to any unexpired term to which the individual was appointed.

(c) A member of the board may be removed for cause by the governor.

Sec. 5. (a) Each year the board shall elect from its members the following officers:

(1) A chairperson.

(2) A vice chairperson.

(3) A secretary.

(b) A member serving as chairperson, vice chairperson, or secretary shall serve until the member's successor as chairperson, vice chairperson, or secretary is elected.

Sec. 6. The board shall meet at least two (2) times each calendar year upon the call of the chairperson or the written request of a majority of the members of the board.

Sec. 7. (a) Three (3) members of the board constitute a quorum.

(b) An affirmative vote of three (3) members of the board is

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necessary for the board to take official action.

Sec. 8. A member of the board is not entitled to a per diem allowance or any other compensation for the performance of the member's duties.

Chapter 4. Powers and Duties of the Board

Sec. 1. (a) The board shall do the following:

- (1) Administer, coordinate, and enforce this article.
- (2) Adopt rules under IC 4-22-2 for the administration and enforcement of this article.
- (3) Judge the qualifications of applicants for licensing under this article.
- (4) Issue, deny, renew, suspend, or revoke licenses under this article.
- (5) Discipline licensees for violations of this article.
- (6) Establish reasonable fees for examination, license applications, renewal of licenses, and other services.
- (7) Maintain a record of all proceedings.
- (8) Establish a system for grievances to be addressed and resolved.
- (9) Maintain a list of licensed massage therapists.

(b) The board is authorized to do the following:

- (1) Rescind or modify a disciplinary action taken under IC 25-21.8-8.
- (2) Conduct investigations to determine whether violations of this article exist and constitute grounds for disciplinary action against licensees under this article.
- (3) Conduct administrative hearings.

Sec. 2. The licensing agency shall do the following:

- (1) Carry out the administrative functions of the board.
- (2) Provide necessary personnel to carry out the duties of this article.
- (3) Receive and account for all fees required under this article.
- (4) Deposit fees collected with the treasurer of state for deposit in the state general fund.

Sec. 3. Expenses incurred in the administration of this article must be paid from the state general fund.

Chapter 5. Issuance of License

Sec. 1. An individual may not practice or offer to practice massage therapy without a license issued by the board.

Sec. 2. An application for a massage therapist license must be:

- (1) made to the board on forms provided by the board; and

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(2) accompanied by an application fee in the amount set by the board.

Sec. 3. An individual who applies for a license as a massage therapist must do the following:

(1) Furnish evidence satisfactory to the board showing that the individual:

(A) is at least eighteen (18) years of age;

(B) has a high school diploma or the equivalent of a high school diploma;

(C) has successfully completed a massage school or program that:

(i) requires at least five hundred (500) hours of supervised classroom instruction on massage therapy;

(ii) is in good standing with any state, regional, or national agency of government charged with regulating massage therapy schools or programs; and

(iii) is accredited by the Indiana commission on proprietary education established by IC 20-1-19-2 or accredited by another state where the standards for massage therapy education are substantially the same as the standards in Indiana, or is a program at an institution of higher learning that is approved by the board; and

(D) has taken and passed one (1) of the following:

(i) The National Certification Examination for Therapeutic Massage and Bodywork (NCETMB), if the exam is recognized or accredited by the NCCA.

(ii) An examination created or approved by the board.

(iii) An equivalent massage examination accredited by the NCCA.

(2) Provide a history of any criminal convictions the individual has, including any convictions related to the practice of the profession. A criminal conviction may not operate as a complete bar to a license, unless:

(A) the conviction is for:

(i) prostitution;

(ii) rape; or

(iii) sexual misconduct; or

(B) the applicant is a registered sex offender.

(3) Verify the information submitted on the application form.

(4) Pay fees established by the board.

Sec. 4. An individual who is not licensed under this article may

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not:

- (1) profess to be a massage therapist;
- (2) practice massage or massage therapy; or
- (3) use:
 - (A) the title "Licensed Massage Therapist", "Massage Therapist", "Licensed Massage Practitioner", "Massage Practitioner", "Masseur", "Masseuse", "Myotherapist", or "Body Worker";
 - (B) the abbreviation "LMT", "MT", "LMP", or "MP"; or
 - (C) other words, initials, letters, abbreviations, or insignia indicating or implying that the individual is a massage therapist licensed under this article.

Chapter 6. Licensure by Endorsement

Sec. 1. (a) Subject to section 2 of this chapter, the board may grant a license by endorsement to an individual who:

- (1) is licensed, certified, or registered in another state or country having credentialing standards that are at least as strict as the credentialing standards specified under this article;
- (2) is in good standing with the standards of the other state or country;
- (3) pays an application fee established by the board; and
- (4) provides a history of the individual's criminal convictions, if any, including any criminal convictions relating to the practice of the profession. A criminal conviction may not operate as a complete bar to a license, unless:

- (A) the conviction is for:
 - (i) prostitution;
 - (ii) rape; or
 - (iii) sexual misconduct; or
- (B) the applicant is a registered sex offender.

(b) Upon receipt of an application for a license by endorsement under this chapter, the board shall contact each jurisdiction that previously credentialed the applicant to determine the applicant's current status in each jurisdiction.

Sec. 2. The board shall issue a license to an applicant if:

- (1) the applicant has been credentialed by another state within the five (5) years immediately preceding the submission of the application to the board under this chapter and the state has credentialing standards for massage therapists that are substantially equivalent to the credentialing standards that must be met under this article; or

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(2) the applicant:

(A) holds a current certification from the National Certification Board for Therapeutic Massage and Bodywork (NCETMB) or another agency that meets standards set by the NCCA; and

(B) is a current member of a professional massage and bodywork therapy association;

and the applicant meets other requirements established by the board.

Chapter 7. License Renewal

Sec. 1. A license issued by the board is valid for four (4) years.

Sec. 2. (a) An individual who applies to renew a license as a massage therapist must:

(1) file a renewal application with the board;

(2) pay a renewal fee established by the board; and

(3) provide a history of any of the individual's criminal convictions, including any criminal convictions relating to the practice of the profession. A criminal conviction may not operate as a complete bar to the renewal of a license, unless:

(A) the conviction is for:

(i) prostitution;

(ii) rape; or

(iii) sexual misconduct; or

(B) the applicant is a registered sex offender.

(b) An application for license renewal must include proof of current membership in a professional massage and bodywork therapy association.

Sec. 3. (a) A renewal application must be submitted to the board at least fifteen (15) days before expiration of the license.

(b) If a renewal application is not submitted within the time set forth in subsection (a), the board may charge the applicant a delinquent fee in an amount established by the board.

Chapter 8. Discipline and Violations

Sec. 1. (a) This section does not apply to the violation of a rule adopted by the board.

(b) A person who knowingly violates or causes a violation of this article commits a Class C misdemeanor.

Sec. 2. (a) The board shall follow the disciplinary procedures established under IC 25-1-7, IC 25-1-9-4, and IC 25-1-9-9.

(b) The board shall adopt rules under IC 4-22-2 regarding the discipline of a licensee for a violation of this article.

Sec. 3. (a) A person who practices, offers to practice, or attempts

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to practice massage therapy, or who holds himself or herself out to the public as a person able to practice massage therapy or as a massage therapist without being licensed under this article, in addition to any other penalty provided by law, shall pay a civil penalty to the board in an amount that does not exceed five thousand dollars (\$5,000) for each violation as determined by the board.

(b) A civil penalty imposed under this section shall be paid not later than sixty (60) days after the effective date of the order imposing the civil penalty. The order:

(1) constitutes a judgment; and

(2) may be filed and executed in the same manner as any judgment from any court of record.

Sec. 4. A person who knowingly:

(1) aids and abets another person in using a title, an abbreviation, or another designation set forth in IC 25-21.8-5-4(3) when the other person is not authorized under this article to use the title, abbreviation, or other designation; or

(2) employs another person who uses but is not authorized to use the regulated professional title under this article in the course of the other person's employment;

in addition to any other penalty provided by law, shall pay a civil penalty to the board in an amount that does not exceed five thousand dollars (\$5,000) for each violation as determined by the board.

Chapter 9. Preemption of Local Ordinances, Resolutions, Rules, and Policies

Sec. 1. Except as provided in section 2 of this chapter, this article supersedes any ordinances, resolutions, rules, and policies relating to the licensing, certification, or registration of massage therapists that are adopted by a municipality or county and that otherwise have the force and effect of law.

Sec. 2. This article does not affect local ordinances, resolutions, rules, and policies adopted by a municipality or county that have the force and effect of law and that relate to:

(1) zoning requirements; or

(2) occupational license fees.

SECTION 9. [EFFECTIVE JUNE 1, 2005] (a) As used in this SECTION, "board" refers to the state board of massage therapy established by IC 25-21.8-3-1, as added by this act.

(b) The governor shall make initial appointments to the board

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not later than July 1, 2005. The initial members of the board shall serve for the following terms:

(1) The three (3) members appointed under IC 25-21.8-3-2(1), as added by this act, serve for two (2) years.

(2) The two (2) members appointed under IC 25-21.8-3-2(2), as added by this act, serve for three (3) years.

(c) An individual who does not meet the requirements of IC 25-21.8-3-2(1), as added by this act, may be appointed to the board if the individual:

(1) substantially meets the requirements of licensure under IC 25-21.8, as added by this act;

(2) currently practices massage or massage therapy in Indiana; and

(3) has practiced massage or massage therapy in Indiana after June 1, 2002, for at least three (3) consecutive years.

(d) This SECTION expires July 1, 2009.

SECTION 10. [EFFECTIVE JULY 1, 2005] (a) Notwithstanding IC 25-21.8-5-3, as added by this act, the state board of massage therapy established by IC 25-21.8-3-1, as added by this act, may issue a license before July 1, 2007, to an applicant who practiced massage or massage therapy in Indiana after June 30, 2000, and before July 1, 2005, if the applicant meets the condition set forth in one (1) of the following subdivisions:

(1) Provides the board with two (2) of the following:

(A) Letters of recommendation from three (3) of the following:

(i) A licensed physician.

(ii) A massage therapy client.

(iii) A member of the clergy.

(iv) An employer that employs the applicant in the practice of massage or massage therapy.

(B) Internal Revenue Service income tax return forms from two (2) consecutive years that reflect that the applicant has been employed in the practice of massage or massage therapy.

(C) A schedule book of massage or massage therapy clients from two (2) consecutive years.

(2) Provides proof of current membership in good standing in a massage or massage therapy professional association that requires at least five hundred (500) hours of supervised classroom instruction as a condition of membership.

(3) Provides a copy of a diploma, transcript, certificate, or

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another proof of completion of:

(A) a massage school accredited by:

(i) the Indiana commission on proprietary education established by IC 20-1-19-2; or

(ii) another state where the standards for massage therapy education are substantially equivalent to the standards in Indiana; or

(B) a program at an institution of higher learning that is approved by the board.

(b) An applicant who begins practicing massage or massage therapy in Indiana after June 30, 2005, must meet the licensing requirements set forth in IC 25-21.8, as added by this act, to be licensed in Indiana.

(c) Notwithstanding IC 25-21.8-5-3 and IC 25-21.8-6, both as added by this act, the state board of massage therapy may issue a license to an applicant who:

(1) before March 1, 2005, enrolled in a massage therapy school or program that required at least five hundred (500) hours of supervised classroom instruction if the school or program was in good standing with any state, regional, or national agency of government charged with regulating massage therapy or programs; and

(2) before January 1, 2006, completes the requirements of the massage therapy school or program described in subdivision (1).

(d) This SECTION expires July 1, 2008.

SECTION 11. [EFFECTIVE JULY 1, 2005] (a) Before July 1, 2007, the state board of massage therapy established by IC 25-21.8-3-1, as added by this act, shall:

(1) adopt a licensing examination;

(2) approve an examination other than the National Certification Examination for Therapeutic Massage and Bodywork (NCETMB); or

(3) approve an equivalent massage examination accredited by the National Commission for Certifying Agencies (NCCA); that an individual may use as the basis for complying with IC 25-21.8-5-3(1)(D), as added by this act.

(b) This SECTION expires December 31, 2007.

SECTION 12. An emergency is declared for this act.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Policy and Veterans Affairs, to which was referred House Bill 1390, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 4, delete lines 27 through 42.

Page 5, delete lines 1 through 18, begin a new paragraph and insert:

"SECTION 5. IC 25-1-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) There is established the Indiana professional licensing agency. The licensing agency shall perform all administrative functions, duties, and responsibilities assigned by law or rule to the executive director, secretary, or other statutory administrator of the following:

- (1) Indiana board of accountancy (IC 25-2.1-2-1).
- (2) Board of registration for architects and landscape architects (IC 25-4-1-2).
- (3) Indiana auctioneer commission (IC 25-6.1-2-1).
- (4) State board of barber examiners (IC 25-7-5-1).
- (5) State boxing commission (IC 25-9-1).
- (6) State board of cosmetology examiners (IC 25-8-3-1).
- (7) State board of funeral and cemetery service (IC 25-15-9).
- (8) State board of registration for professional engineers (IC 25-31-1-3).
- (9) Indiana plumbing commission (IC 25-28.5-1-3).
- (10) Indiana real estate commission (IC 25-34.1).
- (11) Real estate appraiser licensure and certification board (IC 25-34.1-8-1).
- (12) Private detectives licensing board (IC 25-30-1-5.1).
- (13) State board of registration for land surveyors (IC 25-21.5-2-1).
- (14) Manufactured home installer licensing board (IC 25-23.7).
- (15) Home inspectors licensing board (IC 25-20.2-3-1).

(16) State board of massage therapy (IC 25-21.8-3-1).

(b) Except for appeals of denials of license renewals to the executive director authorized by section 5.5 of this chapter, nothing in this chapter may be construed to give the licensing agency policy making authority, which remains with each board."

Page 8, delete lines 9 through 35, begin a new paragraph and insert:

"SECTION 7. IC 25-1-11-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. As used in this chapter, "board" means any of the following:

- (1) Indiana board of accountancy (IC 25-2.1-2-1).

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- (2) Board of registration for architects and landscape architects (IC 25-4-1-2).
- (3) Indiana auctioneer commission (IC 25-6.1-2).
- (4) State board of barber examiners (IC 25-7-5-1).
- (5) State boxing commission (IC 25-9-1).
- (6) State board of cosmetology examiners (IC 25-8-3-1).
- (7) State board of registration of land surveyors (IC 25-21.5-2-1).
- (8) State board of funeral and cemetery service (IC 25-15-9).
- (9) State board of registration for professional engineers (IC 25-31-1-3).
- (10) Indiana plumbing commission (IC 25-28.5-1-3).
- (11) Indiana real estate commission (IC 25-34.1-2-1).
- (12) Real estate appraiser licensure certification board (IC 25-34.1-8).
- (13) Private detectives licensing board (IC 25-30-1-5.1).
- (14) Manufactured home installer licensing board (IC 25-23.7).
- (15) Home inspectors licensing board (IC 25-20.2-3-1).
- (16) State board of massage therapy (IC 25-21.8-3-1)."**

Page 10, line 8, delete "'Bureau" means the health professions bureau" and insert **"'Licensing agency" means the Indiana professional licensing agency established under IC 25-1-6."**

Page 10, delete line 9.

Page 10, line 10, delete "or "massage therapy":" and insert **", "massage therapy", or "bodywork":"**.

Page 10, line 14, after "pressure," insert **"percussion, kneading,"**

Page 10, line 14, after "positioning," insert **"nonspecific stretching, stretching within the normal anatomical range of movement,"**

Page 10, line 17, after "water," insert **"ice, stones, thermal therapy,"**

Page 10, line 18, delete "and abrasives;" and insert **"abrasives, and topical preparations that are not classified as prescription drugs;"**.

Page 10, line 19, after "include" insert **"**:

(A)".

Page 10, line 19, delete "adjustment." and insert **"adjustment; and"**.

Page 10, between lines 19 and 20, begin a new line double block indented and insert:

"(B) diagnosis or prescribing drugs for which a license is required."

Page 10, line 24, delete "or "practice of massage therapy"" and insert **", "practice of massage therapy", or "practice of bodywork""**.

Page 12, line 4, delete "Each member of the board who is not a state

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employee" and insert "**A member of the board is not entitled to a per diem allowance or any other compensation for the performance of the member's duties.**".

Page 12, delete lines 5 through 10.

Page 12, line 34, delete "bureau" and insert "**licensing agency**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1390 as introduced.)

ALDERMAN, Chair

Committee Vote: yeas 9, nays 3.

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